



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/688,483

10/17/2003

Fabrice Billarant

CAC.P0033

2195

7590 03/21/2007
Edward G. Greive
Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor
First National Tower
Akron, OH 44308-1456

EXAMINER

RODRIGUEZ, RUTH C

ART UNIT

PAPER NUMBER

3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

03/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/688,483

Applicant(s)

BILLARANT, FABRICE

Examiner

Ruth C. Rodriguez

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Shimamura et al. (US 6,460,230 B2).

An article (1) over which a molding is to be made by pouring foam on it while it is place on top of a cavity (between walls 9) delimited by vertical walls (9) (C. 8, L. 8-28 and Fig. 3). Each wall has a top surfaces (C. 8, L. 8-28 and Fig. 3) and a magnet (10) in the bottom of the cavity. The article comprises an upper surface, a bottom surface, a central strip region (middle region of 1) and ledge regions (4) extending laterally from the central region (Figs. 1-3). Hooks (2) are extending from the bottom surface of the central strip region. A metallic material is fixed to the article (C. 4, L. 59-67 and C. 5, L. 1-23). The element is of a material and thickness such that when the article is placed on top of the cavity, with the hooks inside the walls and facing the cavity and with foam being poured on the article (C. 8, L. 8-28 and Figs. 1-3). The bottom surfaces of the ledge regions are in contact with the top surfaces of the vertical walls to provide surface to surface contact between the ledge regions and the vertical walls when the foam is poured on the article

Art Unit: 3677

due to the material and thickness of the article when the article is placed on top of the cavity, with the hooks inside the walls and facing the cavity (when pouring of the foam material is beginning and the article is positioned as shown in Fig. 3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura in view of Fleuchaus et al. (US 6,842,950 B2).

Shimamura disclose an article (1) over which a molding is to be made by pouring foam on it while it is place on top of a cavity (between walls 9) delimited by vertical walls (9) having a top surfaces (C. 8, L. 8-28 and Fig. 3). The article comprises a base (1) having a central strip region, ledge regions (4) extending laterally form the central strip region, a top surface and a bottom surface. Hooks (2) are extending from the central strip region of the bottom surface of the base and metallic material is fixed on the bottom surface of the base (C. 4, L. 59-67 and C. 5, L. 1-23). The base is flat in shape (Figs. 1-3). The flat base is of a material and thickness such that when the article is placed on top of the cavity, with the hooks inside the walls and facing the cavity and with foam being poured on the article (C. 8, L. 8-28 and Figs. 1-3). The bottom surface of the ledge

Art Unit: 3677

regions is in contact with the top surfaces of the vertical walls to provide surface to surface contact between the ledge regions and the vertical walls (Fig. 3). Shimamura fails to disclose that material is fixed on the bottom surface of the base. However, Fleuchaus teaches an article over which a molding is to be made by pouring foam on it while it is placed on top of a cavity (between walls 24) delimited by vertical walls (24) having a top surface (Fig. 2). The article comprises a base (52) having a central strip region having a top surface and a bottom surface. Hooks (56) are extending from the central strip region of the bottom surface of the base and metallic material (60) is fixed on the bottom surface of the base (Figs. 5-7). The base is flat in shape (Figs. 1-3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have metallic material being fixed on the bottom surface of the base as taught by Fleuchaus in the article disclosed by Shimamura. Doing so, provides a magnetic engagement between the base and the mold.

Fleuchaus also teaches that the hooks are made in the form of longitudinal rows (Figs. 5-7). The hooks have a Christmas tree shape (Figs. 5-7).

Shimamura also discloses that the longitudinal strip comprises hooks stops at a distance from the longitudinal ends of the base (Figs. 1-7). The longitudinal end regions thus are formed without any hooks over a distance to enable the base to be placed at the level of its longitudinal ends directly on the top edges of the walls forming the cavity (Figs. 2 and 4). Once again, Shimamura fails to disclose that distance is preferably less than 15 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the distance being preferably less than 15 mm.

Art Unit: 3677

since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Shimamura fails to disclose that the base is of polyamide 6 and has a thickness of between 0.2 mm and 0.4 mm or the base has a thickness of 0.15 mm to 0.35 mm and is of polyamide 6-6. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the base made of polyamide 6 or polyamide 6-6 since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Also, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base with a thickness of between 0.2 mm and 0.4 mm when polyamide 6 is used or a thickness of 0.15 mm to 0.35 mm when polyamide 6-6 is used since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Shimamura discloses an article having all the limitations mentioned above for the rejection of claim 1. Shimamura discloses that the metallic material is a magnetic plate. Shimamura fails to disclose that the metallic material is embodied in the form of a metallic resin rib fixed by gluing to the top surface of the base and the metallic resin rib includes two longitudinal reinforcements on either side of the resin-base interface to provide good anchoring of the foam. However, it would have been obvious to one

Art Unit: 3677

having ordinary skill in the art at the time of Applicant's invention to have the metallic material being embodied in the form of a metallic resin rib fixed by gluing to the top surface of the base particularly by forming two longitudinal reinforcements on either side of the resin-base interface to provide good anchoring of the foam where anchoring patterns can also be provided at the outer surface of the metallic resin rib since the Examiner the Examiner takes Official Notice that the use of a metallic resin rib for centering the article is well known in the art as taught by Fleuchaus.

Shimamura also fails to disclose that the resin rib comprises at least 6 g per linear meter of metallic powder for a total weight of metallic resin of at least 10 g per linear meter. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the resin rib comprising at least 6 g per linear meter of metallic powder for a total weight of metallic resin of at least 10 g per linear meter since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Fleuchaus teaches a moulded object of foam to which one or more articles for moulding over are fixed by hardening of the foam on the top surface of the base after the foam has been poured in a mould (Figs. 1, 2 and 9).

Shimamura discloses a mould including a base. The base includes a cavity having walls projecting from the base and the top edges of which being adapted to receive an article for molding over (C. 8, L. 8-28 and Fig. 3). The article is fixed to a molding object by solidification of a foam that is poured there over (C. 8, L. 8-28). The

Art Unit: 3677

cavity has two side walls spaced apart by a distance (Fig. 3). Shimamura fails to disclose that the distance is between 4.5 mm and 12 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the distance being between 4.5 and 12 mm since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 12, the rejection of claim 1 serves to reject claim 12 that has the same limitations as claim 1 with the exception that it recites that the element instead of the base and left and right ledge regions.

The element is flat in shape (Figs. 1-7).

The magnetically attractable material is fixed on the top surface of the element (Figs. 1-7).

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura.

Shimamura disclose an article (1) over which a molding is to be made by pouring foam on it while it is place on top of a cavity (between walls 9) delimited by vertical walls (9) (C. 8, L. 8-28 and Fig. 3). Each wall has a top surfaces (C. 8, L. 8-28 and Fig. 3). The article comprises an element (1) and right and left ledge regions (4). The element has a top surface and a bottom surface (Figs. 1-3). Hooks (2) are extending from the central strip region of the bottom surface of the base and magnetically attractable material is fixed to the element (C. 4, L. 59-67 and C. 5, L. 1-23). The bottom surfaces

Art Unit: 3677

of the ledge regions are in contact with the top surfaces of the vertical walls to provide surface to surface contact between the ledge regions and the vertical walls when the foam is poured on the article due to the material and thickness of the article when the article is placed on top of the cavity, with the hooks inside the walls and facing the cavity (when pouring of the foam material is beginning and the article is positioned as shown in Fig. 3). Shimamura fails to disclose that the hook strip has a width being less than 10 mm, preferably between 3 and 10 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the hook strip with a width of less than 10 mm, preferably between 3 and 10 mm since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Response to Arguments

6. Applicant's arguments filed 02 August 2006 have been fully considered but they are not persuasive.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., broad surface area contact to effect sealing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

Art Unit: 3677

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. The Applicant argues that Shimamura fails to disclose the claimed invention because the grooves act as pivot points and therefore there is no surface to surface contact between the bottom surface of the article and the top surface of the vertical walls. The Examiner fails to be persuaded by this argument because the claim only require surface to surface contact of the bottom surface of the article and the top surface of the vertical walls without giving any additional limitations. Therefore, the claim limitation is being met when the foam material is being initially poured and there is surface to surface contact between the bottom surface of the article and the top surface of the vertical walls (before the weight of the foam deforms the article at the grooves).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3677

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cripps et al. (US 5,061,540), Fujisawa et al. (US 6,439,537 B1), Murasaki (US 6,463,635 B2), Billarant et al. (US 6,596,371), Fujisawa et al. (US 6,720,059 B2) and Fleuchaus et al. (US 6,842,950 B2) are cited to show state of the art with respect to articles having hooks and being used in combination with a mold to mold a cushion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
March 19, 2007


ROBERT J. SANDY
PRIMARY EXAMINER